

Rule 15, Ariz. R. Crim. P.

STATE'S MOTION FOR DEPOSITION OF WITNESS AND PROPOSED ORDER

The State of Arizona, pursuant to Rule 15.3(a), Arizona Rules of Criminal Procedure, by and through undersigned counsel, requests this Court to order the deposition of the State's witness (Name), for the reasons stated in the following Memorandum.

MEMORANDUM OF POINTS AND AUTHORITIES

I. The Law:

Arizona Rules of Criminal Procedure, Rule 15.3(a)(2), allows this Court to order a recalcitrant witnesses to appear and be deposed on motion of any party. Rule 15.3 states in part:

Rule 15.3. Depositions

a. Availability. Upon motion of any party or a witness, the court may in its discretion order the examination of any person except the defendant and those excluded by Rule 39(b) upon oral deposition under the following circumstances:

* * *

(2) A party shows that the person's testimony is material to the case or necessary adequately to prepare a defense or investigate the offense, that the person was not a witness at the preliminary hearing or at the probable cause phase of the juvenile transfer hearing, and that the person will not cooperate in granting a personal interview. . . .

* * *

b. Motion for taking deposition. A motion for deposition shall specify the time and place for taking the deposition and the name and address for each person to be examined The court may change such terms and specify any additional conditions governing the conduct of the proceeding.

II. The facts

The witness in question's name is (Name) and (his/her) address is (Street address, City, State, Zip Code). (He/she) is an essential witness for the State, because (he/she) is (a

witness/victim) (or other reason). The State has repeatedly attempted to arrange a personal interview with (Name). (Specify what steps the State has taken to contact the witness and what happened.) (Name) has refused to grant the State a personal interview. Therefore, a deposition is required because (Name) will not cooperate in granting a personal interview. Rule 15.3(a)(2), Arizona Rules of Criminal Procedure; see *generally State v. Paxton*, 186 Ariz. 580, 588, 925 P.2d 721, 729 (App. 1996). The State requests this Court to order that the deposition be held on (date) at (time), at the Office of the Maricopa County Attorney, 301 West Jefferson, 5th floor, Phoenix, Arizona.

ORDER

Upon Motion by the State of Arizona, it is ordered that (Name) appear for deposition on (date) at (time), at the Office of the Maricopa County Attorney, 301 West Jefferson, 5th floor, Phoenix, Arizona.